

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. Claims 1-24 are pending in the present application.

Withdrawn Rejections

In Sections 2 and 3 of the Office Action, the Examiner withdraws rejections under 35 U.S.C. 101 and 112. Applicant thanks the Examiner for withdrawing these rejections.

Rejections under 35 U.S.C. §103

In Sections 4 and 5 of the Office Action, the Examiner rejects Claims 1-4, 6-12 and 14-24 under 35 U.S.C. §103(a) as unpatentable over U.S. 2005/0195780 (Haverinen *et al.*) in view of U.S. 2004/0267874 (Westberg *et al.*) Applicant respectfully traverses the rejection.

In Section 6 of the Office Action, the Examiner rejects Claims 5 and 13 under 35 U.S.C. §103(a) as unpatentable over Haverinen *et al.* in view of Westberg *et al.* and further in view of U.S. 2005/0163078 (Oba *et al.*) Applicant respectfully traverses the rejection.

Without conceding the Examiner's arguments on the merits as fully discussed in the Office Action, Applicant requests withdrawal of the rejections under 35 U.S.C. §103(a) based in part on Haverinen *et al.* because Haverinen *et al.* is not prior art to the present application. The present application is a national phase filing of PCT/FI2004/000386 filed on June 24, 2004. Haverinen *et al.* was published September 8, 2005, and claimed priority to provisional application 60/551,207 filed March 8, 2004. As such, Haverinen *et al.* meets the prior art qualifications only under 35 U.S.C. §102(e) because it was filed only a few months before the PCT filing date of the present application. 35 U.S.C. §103(c) provides:

- (1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, **shall not preclude patentability** under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

(Emphasis added.)

At the time the claimed invention was made, Haverinen *et al.* was owned by Nokia Corporation, as evidenced by the assignment at reel/frame 016253/0590 and the claimed invention was also owned by Nokia Corporation, as evidenced by the assignment at reel/frame 018376/190.

Accordingly, Applicant respectfully submits that Haverinen *et al.* is not prior art to the claimed invention and the pending rejections should, therefore, be withdrawn.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extension of time is needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any extension fee to Deposit Account No. 19-0741.

Date February 10, 2009
FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4292
Facsimile: (608) 258-4258

Respectfully submitted,

By _____
Paul S. Hunter
Attorney for Applicant
Registration No. 44,787